

September 7, 2004

Dear Member of Congress:

***As organizations representing working women, we are writing to urge your support for the Obey Amendment regarding the Department of Labor's proposed regulatory changes to the overtime eligibility rules under the Fair Labor Standards Act (FLSA). The Obey amendment would force DOL to rescind changes to the overtime rules that take away overtime rights from 6 million workers, but would leave in place an inflation adjustment in the final overtime regulation.***

The Bush administration's final overtime regulation could wipe out overtime pay protections and increase work hours for at least 6 million workers, according to the Economic Policy Institute (EPI). Losing overtime pay protections would result in huge pay cuts for many workers. Among workers who earn overtime pay, overtime wages account for roughly 25 percent of total earnings. Many working women clustered in traditionally female-dominated jobs would be affected, especially in retail, services and sales positions. As a result, millions of working women would see their pay reduced and their workdays lengthened. The increase in mandatory overtime—often with little advance notice—would take time away from families and disrupt the schedules of working parents as well as impose additional child care and other expenses.

DOL's final regulation published on April 23, 2004 would make it easier for employers to reclassify their workers as “executive,” “administrative,” or “professional” employees, who are not entitled to the overtime protections of the FLSA. A recent report by three of the highest-ranking career DOL officials in the Reagan, Bush, and Clinton administrations found that, with one exception, all the substantive changes in DOL's final regulation would take away workers' overtime rights. The one exception is an inflation adjustment to the salary levels that helps determine overtime eligibility. DOL claims that this inflation adjustment will benefit 1.3 million low-income workers, but EPI has used DOL's own data to show that DOL has erroneously included many workers who could not possibly benefit. In fact, at most 384,000 low income workers would benefit from the final regulation.

The Obey amendment would leave in place this inflation adjustment. This salary increase still falls well short of the amount necessary to truly account for price inflation, let alone a more generous measure tied to salary levels that DOL has used in the past. Moreover, on the many occasions when DOL has adjusted the minimum salary threshold many times in the past, it has never used one of these periodic adjustments as an excuse to weaken the overtime rules governing eligibility for workers above the threshold.

DOL's final regulation has alarming implications not just for these 6 million workers, but for all working women. Contrary to DOL's assertions, reducing the number of workers eligible for overtime has never been Congress's intent. Congress intended to apply the overtime protections of the FLSA to the overwhelming majority of all workers, with only narrowly limited exceptions for management and independent professionals.

By broadening the categories of workers who lack overtime protections under the FLSA, DOL is attempting to roll back the 40-hour workweek and rewrite history.

With more working parents working longer hours than ever before, the 40-hour workweek is needed now more than ever. We know that the FLSA's 40-hour workweek works: workers unprotected by the FLSA are twice as likely to work overtime. More workers should be protected by the 40-hour workweek, not fewer. The last thing working women need right now is an attack on the 40-hour workweek, longer hours, and less pay.

A vote against the Obey amendment would be a vote to take away the overtime rights of millions of workers. We strongly urge you to protect the 40-hour workweek, protect workers' right to overtime pay and support the Obey amendment.

Sincerely,

9 to 5, National Association of Working Women  
American Association of University Women  
Feminist Majority  
Institute for Women and Work, Cornell Univ.,  
School of Industrial and Labor Relations  
Labor Project for Working Families  
Legal Momentum (formerly NOW Legal Defense)  
Maine Women's Lobby  
National Asian Pacific American Women's Forum  
National Council of Jewish Women  
National Organization for Women  
National Partnership for Women and Families  
National Women's Law Center  
New York Child Care Coalition  
Take Care Net  
Women Work!